

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Group Art Unit No.: 2193

Douglas Wooff et al.

Examiner: Vu, T.

Serial No.: 10/725,190

Confirmation No.: 9853

Filed on: November 29, 2003

For: METHOD AND APPARATUS FOR  
SOFTWARE LOADING AND  
INITIALIZATION IN A DISTRIBUTED  
NETWORK

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

DECLARATION UNDER 37 C.F.R. §1.131

Sir:

We, DOUGLAS WOUFF, NOBUSHIGE AKIYA, and MATTHEW BALINT,

DECLARE:

1. We are named as inventors in the above-referenced patent application. During all times stated in this declaration, we were employees of Cisco Systems, Inc., San Jose, California, which is the real party in interest in this application. We are informed and believe that the assignee of this application is Cisco Technology, Inc., which is a wholly owned subsidiary of Cisco Systems.

2. We are informed and believe that an Office Act on in this application has cited and relied upon Vishwanath, US Patent Publication No. 2005/0198629. We are informed and believe that the effective date as a reference of Vishwanath is October 10, 2003.

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3. We conceived of the invention that is disclosed and claimed in this patent application on a date prior to October 10, 2003. As evidence of our earlier conception, attached to this declaration are the documents labeled Exhibits 1.1-1.4. I, DOUGLAS WOUFF, participated in the drafting of each of Exhibits 1.1-1.4.

4. As permitted under long-standing USPTO practice, dates are blocked out in Exhibits 1.1-1.4, but the true dates of Exhibits 1.1-1.4 are prior to October 10, 2003. Exhibits 1.1-1.4 provide a complete disclosure of the invention in terms that would enable a person of ordinary skill in the art to make and use the invention. The technical description in Exhibits 1.1-1.4 is commensurate with the scope of the claims that are now pending in this application. Exhibits 1.1-1.4 and constitute a complete disclosure of the invention to another person.

5. After conceiving of the invention, we diligently worked on the invention from a time at least just prior to October 10, 2003 until a constructive reduction to practice in the form of filing a patent application on November 29, 2003 was completed. For example, as evidenced by Exhibit 2.3, we received an email from Kirk D. Wong, the patent attorney who prepared the subject patent application, on October 28, 2003. In that email, Mr. Wong requested a time in which we could meet to discuss the invention. On October 29, 2003, due to scheduling conflicts, a disclosure meeting to discuss the invention for November 7, 2003 was scheduled.

6. As evidenced by Exhibit 2.4, we received a draft of the application from Mr. Wong on November 25, 2003. As evidenced by Exhibits 2.5 and 2.6, Nobushige Akiya and Matthew Balint sent emails to Mr. Wong on November 26, 2003. Those emails included comments about the draft of the application. As evidenced by Exhibit 2.7, Mr. Wong emailed us an updated draft of the application on November 28, 2003, a day before the filing date of the application.

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7. All the acts described herein were performed within the United States of America.

8. None of the acts described herein involved disclosing the invention to anyone outside of Cisco Systems, Inc. and its attorneys. None of the acts described herein involved a sale, offer for sale, or public use of the invention.

9. I, DOUGLASS WOUFF wrote the pertinent sections of Exhibits 1.1-1.4. I am accustomed to writing about technical subject matter in a manner that is intended to be read by skilled, sophisticated readers in the networking field. The figure on page 5 of Exhibit 1.1 depicts a "Booting Node", which corresponds to the recited node of the claimed invention. That figure also depicts a "Boot Server Source", which corresponds to the recited master node of the claimed invention. That figure also depicts "Software Config", which corresponds to the recited first and second storages of the claimed invention.

10. The figure on page 5 of Exhibit 1.1 and the accompanying description on pages 6-7 of Exhibit 1.1, paragraph 3 of page 2 of Exhibit 1.2, and paragraphs 2-3 of page 4 of Exhibit 1.4 together are another way of stating, in a manner directed to a person skilled in the art of software loading, "persistently storing, in a first storage of a master node, a plurality of software packages and a plurality of boot images, wherein the plurality of software packages and the plurality of boot images will be used by the nodes in the distributed network" as currently recited in Claims 1, 10, 21, and 43.

11. The figure on page 5 of Exhibit 1.1 and the accompanying description on pages 6-7 of Exhibit 1.1, paragraph 6 of page 8 of Exhibit 1.2, and paragraph 9 of page 7 of Exhibit 1.3, and section 5.0 on page 15 of Exhibit 1.3 together are another way of stating, in a manner directed to a person skilled in the art of software loading, "persistently storing, in a second

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storage of the master node, software version information and node type information for each node in the distributed network” as currently recited in Claims 1, 10, 21, and 43.

12. The figure on page 5 of Exhibit 1.1 and the accompanying description on pages 6-7 of Exhibit 1.1, paragraphs 2-4 of page 4 of Exhibit 1.2, paragraphs 2-3 of page 8 of Exhibit 1.2, paragraphs 2-3 of page 3 of Exhibit 1.3, and paragraph 7 of page 7 of Exhibit 1.4 together are another way of stating, in a manner directed to a person skilled in the art of software loading, “receiving, at the master node, a request for a boot image and software packages from a node, in the distributed network, that is performing an initial boot” as currently recited in Claims 1, 10, 21, and 43.

13. The figure on page 5 of Exhibit 1.1 and the accompanying description on pages 6-7 of Exhibit 1.1, and paragraphs 3-8 of page 6 of Exhibit 1.2 together are another way of stating, in a manner directed to a person skilled in the art of software loading, “based on the request, the master node determining software version information of the node to retrieve from the second storage” as currently recited in Claims 1, 10, 21, and 43.

14. The figure on page 5 of Exhibit 1.1 and the accompanying description on pages 6-7 of Exhibit 1.1, and paragraphs 3-8 of page 6 of Exhibit 1.2 together are another way of stating, in a manner directed to a person skilled in the art of software loading, “the master node retrieving the software version information of the node from the second storage” as currently recited in Claims 1, 10, 21, and 43.

15. The figure on page 5 of Exhibit 1.1 and the accompanying description on pages 6-7 of Exhibit 1.1, paragraphs 3-8 of page 6 of Exhibit 1.2, and paragraphs 2-3 of page 4 of Exhibit 1.4 together are another way of stating, in a manner directed to a person skilled in the art of software loading, “the master node determining, based on the software version information of the

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node, a boot image of the plurality of boot images and one or more software packages of the plurality of software packages to extract from the first storage" as currently recited in Claims 1, 10, 21, and 43.

16. The figure on page 5 of Exhibit 1.1 and the accompanying description on pages 6-7 of Exhibit 1.1 are another way of stating, in a manner directed to a person skilled in the art of software loading, "the master node extracting the boot image and the one or more software packages from the first storage" as currently recited in Claims 1, 10, 21, and 43.

17. The figure on page 5 of Exhibit 1.1 and the accompanying description on pages 6-7 of Exhibit 1.1 are another way of stating, in a manner directed to a person skilled in the art of software loading, "delivering, to the node, the boot image and the one or more software packages" as currently recited in Claims 1, 10, 21, and 43.

18. Section 4.5 on page 6 of Exhibit 1.4 is another way of stating, in a manner directed to a person skilled in the art of software loading, "wherein the node stores the boot image and the one or more software packages in its local persistent storage; wherein software version information is extracted from the one or more software packages and stored in the local persistent storage; and wherein the node reboots and executes the boot image stored in the local persistent storage" as currently recited in Claim 1.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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Dated: January \_\_, 2008

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Douglass Woof

Dated: January \_\_, 2008

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Nobushige Akiya

Dated: January 28, 2008

  
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Matthew Balint